IN THE COUNTY COURT OF VICTORIA
AT MELBOURNE
CRIMINAL DIVISION

Revised
Not Restricted
Suitable for Publication

Case No. CR-24-00054

DIRECTOR OF PUBLIC PROSECUTIONS

v

SEAN MADANGURE

JUDGE:	HIS HONOUR JUDGE ROZEN
WHERE HELD:	Melbourne
DATE OF HEARING:	23 July 2024
DATE OF SENTENCE:	22 August 2024
CASE MAY BE CITED AS:	DPP v Madangure
MEDIUM NEUTRAL CITATION:	[2024] VCC 1276

REASONS FOR SENTENCE

Subject:	CRIMINAL LAW
Catchwords:	Sentence – guilty plea - obtaining a financial advantage by deception – Theft - Victims were owners' corporations – Offender breached trust - Very large amount of money – Offending sophisticated and protracted – Lengthy unexplained delay – no prior convictions – good rehabilitation prospects - current sentencing practices
Legislation Cited:	*Crimes Act 1958* (Vic); *Sentencing Act 1991* (Vic)
Cases Cited:	*DPP v Merryfull and Bloomfield* [2023] VSCA 244; *Trowsdale v The King* [2024] VSCA 168; *Kotsifas v The Queen* [2021] VSCA 368; *Dailakis v The Queen* [2018] VSCA 101; Apted v The Queen [2021] VSCA 151; *Kruger v The King* [2023] VSCA 149; *Bruce v R* [2022] VSCA 300; *DPP v Wilson* [2024] VSCA 48; *R v Verdins* [2007] VSCA 102; *DPP v Bulfin* [1998] 4 VR 114
Sentence:	4 years 7 months' imprisonment – Non-parole period of 2 years and 8 months – s 6AAA declaration – 6 years and 9 months' imprisonment with a non-parole period of 4 years and 4 months

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APPEARANCES:	Counsel	Solicitors
For the DPP	Ms N. Simpson	Office of Public Prosecutions
For the Accused	Mr I. Crisp	

HIS HONOUR:

1 Sean Madangure, you have pleaded guilty to:

(a) One charge of obtaining a financial advantage by deception;[1] and

(b) One charge of theft.[2]

2 Both charges carry a maximum sentence of 10 years' imprisonment.

3 Between the 21st of May 2013 and 20th of April 2016, you obtained a financial advantage by deception while working as a Strata Manager at Edenwise Pty Ltd (**Charge 1**). You also stole funds from owners' corporation ('OC') bank accounts, while managing approximately 330 owners' corporations through your business Sandstar Investments Pty Ltd (**Charge 2**).

4 The total sum you dishonestly obtained was $3,299,219.

5 **Summary of Offending**

6 The following summary of your offending is taken from the Summary of Prosecution Opening for Plea dated 28 June 2024,[3] which I note is an agreed document.

7 *Relevant parties*

8 ACE Body Corporate Management Pty Ltd ('ACE') is a national franchise network providing strata/owners corporation management services around Australia. In 2016, ACE had 80 franchised areas, known as "territories". These franchised areas were owned and operated by approximately 72 companies, which traded under the name ACE.

[1] *Crimes Act 1958* (Vic) s 82 ('*Crimes Act'*).
[2] Ibid, s 74.
[3] Exhibit P1, Annexure 1.

9 The duties of a franchisee company were to manage the common property on behalf of the owners' corporations ("OCs"). Each franchisee was responsible for organising meetings and providing notices for those meetings, managing the financials on behalf of the owners' corporations, facilitating works that needed to be done on common property, assisting owners with the interpretation of the legislation and guiding them to appropriate specialists. Franchisees also assisted developers in the planning stage and organised and paid contractors on behalf of the body corporate.

10 Edenwise Property Management Pty Ltd ('Edenwise') was one such franchisee company. Edenwise had a franchise agreement with ACE. The directors of Edenwise were Eshan and Terrence Perera. Between 2009 and 2014, Edenwise owned and operated seven territories, trading under the brand name ACE.

11 Sandstar Investments Pty Ltd ('SSI') was another franchisee company. You and your wife, Stefanie Madangure, were SSI's directors. In 2014, SSI purchased the seven territories from Edenwise, and entered into franchise agreements with ACE in respect of each.

12 Mazowe Mutual Pty Ltd ('Mazowe') was a company run by you. You were a director of Mazowe. You used this company to purchase DSM Coatings Pty Ltd ('DSM'), a building and maintenance company, in 2015.

13 ***Charge 1 – Obtain Financial Advantage by Deception***

14 In around March 2012, Edenwise employed you as an office administrator. You were required to perform various duties, such as preparing and posting documents for OC annual general meetings, preparing OC certificates and performing administration tasks for the strata managers.

15 About one year after you started at Edenwise, you were promoted to the position of Strata Manager.

16 While working in this role, you had access to 'Strata Master', the back-end strata management system. The Strata Master system was used to manage the financials of the OCs, including to upload and process invoices for work completed by contractors.

17 Using your role as a Strata Manager, you obtained a financial advantage for yourself by changing the back-end Strata Master payment details of actual contractor invoices from the correct contractor account number and BSB to those of your own. Once payment was made to your bank account, you would return to the back-end Strata Master system and change the contractor's account number and BSB back to the correct ones.

18 In doing so, you dishonestly obtained $159,156 in 45 separate transactions.

19 ***Charge 2 - Theft***

20 Between the 1st of April 2014 and the 20th of April 2016 you stole $3,140,063 from the bank accounts of owners' corporations under your management. Charge 2 is a rolled-up charge comprising 1,360 separate transactions.

21 The funds you stole were applied to your personal expenses, including:

(a) The purchase of the business from Edenwise and DSM;

(b) Wages and entitlements owing to staff who worked for you;

(c) Gambling; and

(d) Personal living expenses.

22 *Purchase of territories and franchise agreements*

23 Between the 5th of February 2014 and the 12th of September 2014, through SSI, you purchased 7 territories, operating under a franchise agreement with ACE, from Edenwise. The total purchase price of the territories from Edenwise was

$1,540,000 and was to be paid in instalments pursuant to the business sale contracts. The seven territories purchased were Balwyn, Malvern East, Caufield, Elsternwick, Templestowe, Bentleigh and Essendon. Instalments for the properties were to be paid at various times between the 5th of February 2014 and the 15th of December 2014.

24 In March 2015, you purchased an eighth territory in Sunbury.

25 As part of the purchase of the businesses, you also signed eight franchise agreements with ACE - one per territory. These agreements were signed between the 20th of March 2014 and the 26th of March 2014.

26 The arrangement was for you to pay for some of the purchases of the businesses through a loan with Macquarie Bank, with the remainder to be paid by your parents in Zimbabwe. With the exception of $90,000, which remains outstanding, all monies were paid when due. You used funds stolen from the OC's bank accounts to fund the purchase of these businesses.

27 *Purchase of DSM Coatings Pty Ltd*

28 In 2015, through Mazowe, you purchased DSM from Mr Kevin Lee. You made this purchase using funds obtained from owners' corporation bank accounts.

29 The agreed purchase price for the business was $680,000. A deposit of $68,000 was to be paid on the 15th of November 2015, with the balance to be paid by the 19th of January 2016. You advised Mr Lee that the deposit would be paid by your father in Zimbabwe and that there was a delay because of an international currency hold up.

30 In February 2016, Mr Lee received $280,000 from SSI on behalf of Mazowe.

31 Sometime in February or March 2016, you attended Mr Lee's office in Glen Iris and asked him to come and work for Mazowe, trading as DSM in Mount

Waverley. Mr Lee agreed on the proviso that he would receive further payments for his business handover before he signed a contract.

32 In around April 2016, Mr Lee received more money from you and then signed some more contracts. He was also made a director of Mazowe in order to sign contracts. He was never granted access to the bank accounts, nor did he have access to profit or loss statements. His role was one of a contractor.

33 On the 11th of May 2016, Mr Lee received three payments with the reference 'Business Purchase', namely $25,000, $62,000 and $143,000. The payments totalled $230,000.

34 On about the 20th of June 2016, Mr Lee received a letter from NAB advising that $109,000 that SSI had attempted to transfer to him on 17 June 2016 had been rejected.

35 *Circumstances of offending*

36 During the period that you owned the territories, SSI was responsible for administering the functions of the OCs, including conducting annual general meetings, collecting and banking levies, arranging property maintenance, placing insurance, and keeping accurate financial accounts. SSI also became the primary signatory to the bank accounts of approximately 330 OCs. SSI was paid an agreed management fee for this service.

37 SSI used Strata Master to manage the financials of the OCs. The program would document monies received by the OCs and monies that needed to be paid. The records in Strata Master would ordinarily match the bank account balance for each OC.

38 Though the strata managers employed by SSI had access to the Strata Master system, you were the only person who had access to the OC bank accounts.

This enabled you to transfer funds from the OC bank accounts into your own personal and business accounts.

39 In order to avoid detection, when invoices or payments were showing as due on the Strata Master system for a particular OC account, you were able to take money from whichever OC bank accounts had funds, in order to effect payment, even if the funds were not available in the particular OC account. Eventually, you had exhausted much of the funds, and were unable to pay outstanding invoices as required.

40 In total, you stole $3,157,679 from owners' corporation accounts between the 1st of April 2014 and 20th of April 2016.

41 At no time were you or SSI entitled to take money from the owners corporations' bank accounts to use for your own means.

42 *Detection of Offending*

43 Brian Thompson of Keep Better Books Pty Ltd was the bookkeeper contracted for SSI. Whenever he would process the business activity statement on behalf of the company, he would ask you and your wife what the nature of your deposits into SSI were. The deposits would normally be nominated by you or your wife as "director's contributions" or "payment for services/fees". Where they were nominated as director fees, no GST was payable, and those fees are not considered income.

44 On the 2nd of November 2015, Mr Thompson advised you that there were insufficient funds in the SSI account to cover employee wages for the previous fortnight. You responded straight away that you had drawn down the management fees that morning and they would hit the account that afternoon.

45 Around Christmas time 2015, Mr Thompson informed you that wages for some of your staff had not been paid. You eventually paid the wages after repeated messages from Mr Thompson.

46 Throughout early 2016, SSI was repeatedly short of funds for its accounts payable.

47 On the 30th of March 2016 the CEO of ACE, Steven Raff, received a complaint from the owners' corporation at 33 Nepean Highway, Elsternwick, a corporation managed by you. The OC had cancelled its contract for management services with SSI. The OC complained that your office had failed to transfer funds to the OC, which were owing, within the required 28-day period following termination. This was a catalyst for an investigation, however you were able to provide a reasonable explanation for why the money had not been transferred, and returned the funds in full. The complaint was ultimately withdrawn.

48 On the 10th of May 2016, the OC at 88 Orrong Road made a phone complaint to ACE Head Office regarding a discrepancy in the OC funds. A formal complaint was made in writing. As a result of this complaint, Mr Raff investigated the financials in respect of SSI and its territories. You provided bank statements which appeared suspicious to Mr Raff. Mr Raff contacted Macquarie Bank to obtain information about the accounts.

49 On the 17th of May 2016, Mr Thompson spoke with your tax accountant, Pat Mannix, about you not having met a payment due to the ATO. It appeared that you had paid the sum of $10,000 to the ATO, but it had bounced. Mr Thompson asked Mr Mannix to speak with you about your financial position as Mr Thompson had previously tried to do so without success.

50 On the 18th of May 2016, Mr Mannix advised Mr Thompson that you had explained you would have a lot of money coming in over the next month through

your company, DSM. You provided Mr Thompson with a spreadsheet of contracts that DSM had won which detailed the amount of money you were to receive.

51 On the 1st of June 2016, ACE Head Office received further complaints in respect of the territories managed by SSI. These complaints related to the non-payment of outstanding invoices for properties you managed.

52 Mr Raff contacted you and discussed the complaints and the discrepancies in the bank statements you had provided. Mr Raff asked you to put your business on the market and advised they would be assessing your financials. You agreed that ACE Head Office could assist you in selling your franchises on the basis that you were not meeting the expectations of your franchise agreement.

53 On the 9th of June 2016, ACE Head Office issued SSI with a notice of breach of franchise agreement.

54 At the end of June, Mr Thompson was advised that ACE was taking steps to terminate the franchise agreement with SSI. He requested financial information regarding SSI. Mr Thompson requested permission from you to disclose the information, which you provided.

55 Your access to all OC bank accounts was cancelled.

56 At about 9:54am on the 1st of July 2016, you contacted Mr Raff and admitted that you had misappropriated OC funds of approximately $3m. You admitted that you had used the funds to purchase the franchised areas from Edenwise.

57 On the 4th of July 2016, Mr Raff reported your offending to Victoria Police in Mordialloc.

58 From late June until early July 2016, Ian Ross and Daniel Hunt were asked by Mr Raff to assist in sorting out the situation at the offices of SSI, Ricketts Road, Mount Waverley. Mr Raff advised them of what you had admitted to and asked them to take over running the business in the meantime.

59 It was discovered that transactions in Strata Master were not all valid. There were many journals and there were many bills entered into the system for payment, but no money had ever been paid out of the bank account, despite having been reconciled in the system as 'cleared'.

60 *Investigation*

61 On the 16th of December 2016, Sergeant Sapir of Victoria Police commenced an investigation into your activities.

62 At about 8:10am on the 29th of July 2017, police attended an address in The Boulevard, Malvern East. You were arrested and were given a caution and your rights were explained.

63 At about 9:32am on that day, police conducted a record of interview with you.

64 *Forensic Examination*

65 Forensic examination of your personal and business bank accounts was conducted by the forensic accounting unit of Victoria Police between 14 November 2017 and 20 August 2022.

66 Analysis revealed that between 21 May 2013 and 21 April 2016:

(a) Excluding transfers between related accounts, deposits totalling $7,368,719.35 were made into all personal and business bank accounts for you and your wife.

(b) Excluding transfers between related accounts, withdrawals totalling $7,263,702.34 were made from all personal and business bank accounts for you and your wife.

67 The largest source of the funds deposited into your bank accounts were:

(a) $3,299,219 in verified deposits from owners' corporation bank accounts;

(b) $2,028,973.52 (net) in other deposits from owners' corporation bank accounts, including $829,926 worth of deposits with the description 'management fees';

(c) $607,169.50 from Nelson McKinnon Lawyers with the reference 'loan'; and

(d) $227,194.81 (net) from insurance and CHU underwriting.

68 The largest disbursements made from the accounts were:

(a) $988,785.43 (net) to Edenwise Property Management. The prosecution case is that this sum related to payments for the businesses from Edenwise;

(b) $681,053.24 in salary, wages and related costs;

(c) $616, 642.72 (net) to gambling agencies;

(d) $444,355.67 (net) in deposits, transfers, purchases and payments (other);

(e) $398,293.62 to DSM Coating / DSM Building Maintenance. The prosecution case is that this sum related to payments for the business from Mr Lee;

(f) $319,000 to Madangure & Heise account;

(g) $310,135 (net) to Heise, Oliver t/as O&S Developments and Heise, Oliver & Sonya;

(h) $308,637.39 to Mabalengwe Safari Tours – Zimbabwe;

(i) $251,230 to Northern Property Alliance – Templestowe purchase. The prosecution case is that this is a payment for the purchase of the Templestowe territory;

(j) $200,000 to JP Just Properties;

(k) $178,607.06 to Strata Nextgen Pty Ltd;

(l) $176,166.48 in purchase and payments – motor vehicles and related;

(m) $162,412.55 in cash withdrawals;

(n) $150,000 to Bendigo Diabetes & Endocrine Centre Pty Ltd, t/as Platinum Strata. The prosecution case is that this is a payment for the purchase of the Elsternwick territory;

(o) $137,549.29 (net) to ACE Body Corporate;

(p) $128,027.49 in purchases and payments – general retail, groceries and household expenses; and

(q) $101,569.32 to Claudio C Vjero Strata Consult.

69 **Personal circumstances**

70 Your personal circumstances were described in a Psychiatric Report by Associate Professor Danny Sullivan dated 17 July 2024.[4]

71 You are 35 years of age, and were 24-26 during the period of your offending.

72 You were born in Zimbabwe and grew up in an affluent family in Bulawayo. You described a complex relationship with your father who you said drank to excess, was driven to succeed in business, and was domineering.

73 As the eldest child, it was demanded that you obtain high academic results, and you felt a great deal of pressure in relation to this.

74 You attended Christian Brothers College where you experienced harsh physical discipline including beating with objects. You considered this to have been inappropriate and excessive however you do not display features of trauma associated with it.

[4] Exhibit D4.

75 Since your father's death you have been involved in closing down his business affairs in challenging circumstances due to differing time zones and what you describe as corruption in Zimbabwe.

76 Your mother recently visited after a separation of around 14 years and you were able to discuss aspects of your upbringing including the excessive pressure placed upon you.

77 You travelled to Australia for university and commenced a Bachelor of Commerce at Deakin University in Burwood. From 2011 to 2015 you were embroiled in visa issues due to an error on the part of the Department of Immigration and Border Control. This led to protracted administrative and legal uncertainty. During this period, your studies suffered, and you were unable to continue.

78 After the student visa which you arrived on was erroneously cancelled, you obtained a bridging visa E and subsequently, once the issues with your visa were resolved by the Migration Review Tribunal, you obtained permanent residency and have since gained Australian citizenship.

79 You worked as a waiter before entering the business of managing owners' corporations, which led to your offending. You report being introduced to the business by fellow congregation members in 2013. Once you had been working with them for a while, they suggested you manage your own portfolio. You considered that this business enterprise would assist your claim for residency, at a time when your visa status was uncertain.

80 You investigated the possibility of a bank loan, and subsequently asked your father for a loan. Your father promised financial assistance but reneged on this arrangement in 2013. Despite this, you felt committed to carrying through your business plans.

81 Once you commenced the business, and without the money from your father, you had difficulty meeting financial demands and began changing invoices to

divert money from contractors to yourself. In your interview with Dr Sullivan, you described your offending behaviour as ‘snowballing’.

82 In addition to misappropriating funds and having greater outgoing expenses than income, you report daily gambling on sports betting between 2012 and 2018. Winnings were used to pay expenses and to send money to your parents, who were struggling financially. You told Dr Sullivan you would research and study for this, and saw it as a way to supplement income rather doing it for pleasure or satisfaction. You acknowledge, however, that this gambling ‘brought further trouble’.

83 After your offending came to light, you commenced work as a courier and have since progressed from being a contractor to an employee of a large courier firm, and have obtained a heavy rigid truck licence. You have ‘acted up’ as second-in-command to cover other employees’ leave, and report that you have been offered supervision opportunities which you have declined. You work long days and drive locally, generally delivering bulk goods to retailers.

84 **Objective gravity and moral culpability**

85 As your counsel conceded, your offending occurred in circumstances where you were highly trusted. There was a degree of sophistication and planning that went into your offending and you only stopped offending when you realised you were going to be found out.

86 In relation to charge 1, you were a highly trusted employee of your victim, Edenwise Pty Ltd. Your offending occurred during the period you were the Strata Manager and you took advantage of the access you had to the Strata-Master system to redirect money that belonged to your employer into your own bank account. You knew that you were not entitled to the money and that your conduct was dishonest. The offending persisted over 9 months and involved 45 transactions and a total of $159,156.00.

87 Charge 1 is a mid-range example of the offence against s 82(1) of the *Crimes Act 1958*.

88 Charge 2 shares a number of the features of charge 1 but the victims were your clients, not your employer. There is a number of features of charge 2 that make it considerably more serious than charge 1. The offending occurred over a period of in excess of two years and involved 1,360 transactions. You stole in excess of $3.1m.

89 This is a mid to high level instance of the offence of theft.

90 Your moral culpability for your offending is considerable. As Ms Simpson the prosecutor submitted, you were not stealing to put food on the table to feed your family. You had a well-paid position and your financial stress arose because you were wanting to purchase businesses without having the funds available to do so.

91 You were well aware that what you were doing was wrong but, as you explained to police, you could not stop despite having ample opportunities to do so.

92 To a certain extent, you used the money you dishonestly obtained to maintain your lifestyle and that of your family.

93 **Matters of Mitigation**

94 *Guilty Plea*

95 Because white collar fraud is difficult to detect, it requires costly and time consuming investigations and prosecutions. Therefore, the utilitarian value of a guilty plea is significant.

96 By consenting to the preparation of a plea brief you avoided the need for a full hand up brief to be prepared, and the prosecution accept that yours was a plea of guilty made at the earliest opportunity.

97 Because you had made full admissions about your wrongdoing when you were interviewed in 2017, your guilty plea represents a genuine recognition of your wrongdoing and cogent evidence of your remorse.

98 *Delay*

99 There was a significant and largely unexplained delay of over seven years between the date on which you revealed your dishonest behaviour to Mr Raff of ACE, being 1 July 2016, and the date that charges were filed against you being 11 September 2023. On 4 July 2016, Mr Raff reported to police what you had admitted to him.

100 Even if the starting point of the period of delay is the date on which you made full admissions to police during your formal interview on 29 July 2017, the period of delay before you were charged approaches six years. This is a very long period of time.

101 There is little by way of explanation for the delay before the court. According to the prosecution submissions, 'a review of the material suggest the delay was a result of the forensic accounting process'.[5] I accept that offending such as yours can be difficult to investigate. What is clear is that this delay was in no way your fault.

102 The law concerning the impact of delay on sentencing was recently explained by the Court of Appeal:

> (a) It is beyond doubt that significant delay between the time an offender is charged and ultimately sentenced can be a powerful mitigating factor. There are two limbs to the consideration of such delay: unfairness and rehabilitation. In the absence of a prosecution concession as to their applicability, an offender seeking to rely on either or both limbs will be expected to adduce some evidence to support them…

[5] Prosecution Plea Submissions dated 21 July 2024, [26] ('*Prosecution Submissions*').

> 103 The unfairness limb concerns the anxiety caused by a charge hanging over an accused's head. …
>
> (a) The rehabilitation limb concerns whether, during the period of delay, an accused made progress towards rehabilitation. There are two aspects to this limb: remorse and reform. The first requires evidence of acceptance of responsibility for the offending, acknowledgment of its wrongfulness and expression of contrition. The second requires evidence of the steps an offender has taken to reform.[6]

104 Although the court was there referring to the delay between being charged and being sentenced, a delay between an accused making extensive admissions about their offending and being charged may also be taken into account by a sentencing court in mitigation of sentence.

105 When you were interviewed by psychologist Mr Healy and Associate Professor Sullivan, you made little reference to any anxiety that may have resulted from the delay in the police filing charges.[7] Nonetheless, as the prosecutor has conceded the first limb is relevant in your case,[8] I will moderate the sentence to a limited extent on this basis. Psychological evidence is 'not always necessary for the unfairness limb of delay to operate in mitigation of sentence'.[9]

106 Turning to the second limb, as the prosecutor accepts, in the intervening period you have made 'good progress towards [your] rehabilitation'.[10]

107 Your progress is more than just the absence of any further offending, as important as that undoubtedly is. I accept that you are genuinely remorseful for your offending based on your early and detailed disclosure of your offending to authorities, what you told both psychologists[11] and what you have shared with family and friends. For example, your wife, Mrs Stefanie Madangure, describes

[6] *DPP v Merryfull and Bloomfield* [2023] VSCA 244, [44]-[46] (citations omitted).
[7] Dr Sullivan diagnoses a depressive condition brought since your offending: Exhibit D4, [43].
[8] *Prosecution Submissions* (n 5) [27].
[9] *Trowsdale v The King* [2024] VSCA 168, [47].
[10] *Prosecution Submissions* (n 5) [27].
[11] See e.g., Exhibit D4, [41].

you as 'very sorry for the hurt [your] actions have caused the victims of these crimes…'.[12]

108 You were unable to work for two years but as noted earlier eventually found work as a courier driver with StarTrack. You have been promoted into roles with considerable responsibility. You have also worked hard to repair the damage your offending caused to your marriage. All of this is to your credit and convinces me that your prospects of rehabilitation once you are released are very good.

109 I have therefore also moderated the sentence that I impose having regard to both aspects of the second delay limb – remorse and reform.

110 *Verdins*

111 Based on the report of Dr Sullivan, limb 5 of the *Verdins*[13] principles is enlivened. I accept that you suffer from major depressive disorder, moderate severity and somatic symptom disorder. Further, the burden of incarceration that you will suffer will be greater than that which a person of normal health would experience.[14]

112 I have moderated your sentence accordingly.

113 *Extra-curial punishment*

114 In approximately 2016, you were 'disfellowshipped' by the Jehovah's Witnesses, a process of ex-communication. Other congregation members, including your parents, were forbidden to contact you for over six years leading to significant social isolation. In their letters to the court, your mother and wife describe the trauma that this caused.[15]

115 Your eventual return to the Jehovah's Witnesses followed a committee of elders sitting as the Judicial Committee admonishing your 'appalling' behaviour and

[12]Letter from Stefanie Madangure dated 11 June 2024, Exhibit D2C, 1.
[13]*R v Verdins* [2007] VSCA 102.
[14]Exhibit D4, [43], [44], [51].
[15] Undated letter from Gaynor Saidi (formerly Madangure), Exhibit D2B, 2; Exhibit D2C, 2.

informing you that you had fallen short of the standards expected of a Christian. It was only when you accepted this that you were allowed back into the congregation and your family could again contact you.[16]

116 According to your wife, you have once again become a valued and beloved member of the congregation and you are engaging in a weekly volunteer Bible education program.

117 I consider that this represents a form of extra-curial punishment and I have taken it into account in a small way to moderate your sentence.

118 **Current sentencing practices**

119 The prosecution referred the court to a number of cases to inform my understanding of sentencing practices in cases that are similar to yours as this is one matter to which the court must have regard.[17] Such cases are helpful but it is important to bear in mind that each case must be sentenced having regard to its own unique facts and circumstances.

120 Four appellate decisions were identified as demonstrating general sentencing principles with facts that bear some similarity to yours.[18]

121 I have read each of the cases and consider the recent appeal in *Kruger*[19] to be the closest factually to yours albeit that different matters of mitigation were relied upon.[20] The accused in that case had no prior convictions and was otherwise of good character. She stole in excess of $3.7m over seven years while working as a bookkeeper for her employer. There were 349 unauthorised transactions to her bank account. An appeal by Ms Kruger against the sentence of 5 years and 4

[16]Exhibit D4, [13].
[17]*Sentencing Act 1991*, s 5(2)(b).
[18]*Kotsifas v The Queen* [2021] VSCA 368; *Dailakis v The Queen* [2018] VSCA 101; *Apted v The Queen* [2021] VSCA 151; *Kruger v The King* [2023] VSCA 149.
[19]*Kruger v The King* [2023] VSCA 149 (‘*Kruger’).*
[20] Ms Kruger was able to rely on her childhood deprivation as reducing her moral culpability: Ibid, [38]-[43].

months' imprisonment was dismissed. The Court of Appeal characterised the sentence as 'if anything, lenient'.[21]

122 A further appeal decision to which I have had regard is the more recent case of *DPP v Wilson.*[22] The offender, who had a relevant prior criminal history, obtained approximately $2m from a vulnerable man by deception. The offender's moral culpability was very significant, his guilty plea was a late one and he only had his plea and delay available as matters of mitigation. The sentence of 5 years' imprisonment was increased on a Crown appeal to 8 years' imprisonment.

123 While *Wilson* is clearly a more serious example of this type of dishonesty offending than yours, it does indicate the seriousness with which this type of offending is viewed.

124 **Consideration**

125 The offences you have committed are, as is clear from the prescribed maximum penalty of 10 years' imprisonment for each, serious criminal offences. The seriousness of this type of offending is accurately described in the following passage from the Court of Appeal judgment in the well-known case of *DPP v Bulfin*:

> (a) Whatever the motivation, offences of the kind here in question almost invariably involve a carefully calculated course of conduct over a long period, repeated deliberate acts of dishonesty, substantial amounts of money and frequently losses (often tragic in their impact) to large numbers of small investors. The offender often holds a position making it possible, or has the ability, to disguise or camouflage the conduct in question. Detection is difficult, the investigation of the crime usually lengthy and very expensive, and the problems of trial and proof will frequently be extreme. ... The result of such considerations, in my view, is that the element of general deterrence will usually carry particular significance in sentencing for crimes

[21] Ibid, [50].
[22] [2024] VSCA 48.

such as the present, ...together with the requirement for strong denunciation by the sentencing court.[23]

126 Many of these considerations apply to your offending.

127 Further, you have not repaid any of the money as you don't have the means to do so despite holding down a job. Fortunately, the owners' corporations were insured against the bulk of their losses.

128 General deterrence is the principal sentencing consideration in this sentencing exercise along with denunciation and punishment. I consider that you are unlikely to re-offend and therefore specific deterrence and protection of the community are lesser concerns.

129 The sentences I impose must reflect that both charges are rolled up charges. While the maximum penalty remains that prescribed for a single offence, as the Court of Appeal has explained, '[a] judge sentencing for a rolled-up charge is obliged to take into account the aggregate criminality involved in all of the offences comprised in the charge. It follows that the sentence imposed on such a charge will almost inevitably be greater than the sentence imposed for a single such offence'.[24]

130 There is a presumption that the sentences I impose on you are to be served concurrently.[25] Despite this, I consider that a degree of cumulation is required to reflect the different periods of the offending and the different victims.

131 I have set a shorter than usual period before you are eligible for parole in recognition of your very good prospects of rehabilitation as discussed earlier.

132 Taking into account all relevant considerations, I make the following orders:

[23] *DPP v Bulfin* [1998] 4 VR 114.
[24] See *Bruce v R* [2022] VSCA 300, [31].
[25] *Sentencing Act 1991* (Vic), s 16(1).

(a) On charge 1, obtaining a financial advantage by deception, you are convicted and sentenced to 2 years' imprisonment.

(b) On charge 2, theft, you are convicted and sentenced to 4 years' imprisonment.

(c) The sentence imposed on charge 2 is the base sentence.

(d) I order that 7 months of the sentence imposed in respect of charge 1 is to be served cumulatively on the charge 2 sentence.

(e) The total effective sentence is therefore 4 years and 7 months.

(f) You will be eligible for parole after you have served 2 years and 8 months.

(g) Pursuant to s 6AAA of the *Sentencing Act 1991*, I indicate that if you had pleaded not guilty, the head sentence would have been 6 years and 9 months' imprisonment and the non-parole period would have been 4 years and 4 months.